

§ 194.65 Notice of proposed rulemaking for modification or revocation.

(a) If the Administrator determines that any changes in activities or conditions pertaining to the disposal system depart significantly from the most recent compliance application, the Agency will publish a Notice of Proposed Rulemaking in the FEDERAL REGISTER announcing the Administrator's proposed decision on modification or revocation, and soliciting comment on the proposal.

(b) Any comments received on the notice will be made available for inspection in the dockets established pursuant to § 194.67.

§ 194.66 Final rule for modification or revocation.

(a) The Administrator will publish a Final Rule in the FEDERAL REGISTER announcing the Administrator's decision on modification or revocation.

(b) A document summarizing significant comments and issues arising from comments received on the Notice of Proposed Rulemaking as well as the Administrator's response to such significant comments and issues will be prepared and will be made available for inspection in the dockets established pursuant to § 194.67.

§ 194.67 Dockets.

The Agency will establish and maintain dockets in the State of New Mexico and Washington, DC. The dockets will consist of all relevant, significant information received from outside parties and all significant information considered by the Administrator in certifying whether the WIPP facility will comply with the disposal regulations, in certifying whether or not the WIPP facility continues to be in compliance with the disposal regulations, and in determining whether compliance certification should be modified, suspended or revoked.

APPENDIX A TO PART 194—CERTIFICATION OF THE WASTE ISOLATION PILOT PLANT'S COMPLIANCE WITH THE 40 CFR PART 191 DISPOSAL REGULATIONS AND THE 40 CFR PART 194 COMPLIANCE CRITERIA

In accordance with the provisions of the WIPP Compliance Criteria of this part, the Agency finds that the Waste Isolation Pilot Plant ("WIPP") will comply with the radioactive waste disposal regulations at part 191, subparts B and C, of this chapter. Therefore, pursuant to Section 8(d)(2) of the WIPP Land Withdrawal Act ("WIPP LWA"), as amended, the Administrator certifies that the WIPP facility will comply with the disposal regulations. In accordance with the Agency's authority under § 194.4(a), the certification of compliance is subject to the following conditions:

Condition 1: § 194.14(b), Disposal system design, panel closure system. The Department shall implement the panel seal design designated as Option D in Docket A-93-02, Item II-G-1 (October 29, 1996, Compliance Certification Application submitted to the Agency). The Option D design shall be implemented as described in Appendix PCS of Docket A-93-02, Item II-G-1, with the exception that the Department shall use Salado mass concrete (consistent with that proposed for the shaft seal system, and as described in Appendix SEAL of Docket A-93-02, Item II-G-1) instead of fresh water concrete.

Condition 2: § 194.22: Quality Assurance. The Secretary shall not allow any waste generator site other than the Los Alamos National Laboratory to ship waste for disposal at the WIPP until the Agency determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3) and 194.24(c)(5) for waste characterization activities and assumptions. The Agency will determine compliance of site-specific quality assurance programs at waste generator sites using the process set forth in § 194.8.

Condition 3: § 194.24: Waste Characterization. The Secretary may allow shipment for disposal at the WIPP of legacy debris waste at the Los Alamos National Laboratory ("LANL") that can be characterized using the systems and processes inspected by the Agency and documented in Docket A-93-02, Item II-I-70. The Secretary shall not allow shipment of any waste from any additional LANL waste stream(s) or from any waste generator site other than LANL for disposal at the WIPP until the Agency has approved the processes for characterizing those waste streams for shipment using the process set forth in § 194.8.

Condition 4: § 194.43, Passive institutional controls.

(a) Not later than the final recertification application submitted prior to closure of the disposal system, the Department shall provide, to the Administrator or the Administrator's authorized representative:

(1) a schedule for implementing passive institutional controls that has been revised to show that markers will be fabricated and emplaced, and other measures will be implemented, as soon as possible following closure of the WIPP. Such schedule should describe how testing of any aspect of the conceptual design will be completed prior to or soon after closure, and what changes to the design of passive institutional controls may be expected to result from such testing.

(2) documentation showing that the granite pieces for the proposed monuments and information rooms described in Docket A-93-02, Item II-G-1, and supplementary information may be: quarried (cut and removed from the ground) without cracking due to tensile stresses from handling or isostatic rebound; engraved on the scale required by the design; transported to the site, given the weight and dimensions of the granite pieces and the capacity of existing rail cars and rail lines; loaded, unloaded, and erected without cracking based on the capacity of available equipment; and successfully joined.

(3) documentation showing that archives and record centers will accept the documents identified and will maintain them in the manner identified in Docket A-93-02, Item II-G-1.

(4) documentation showing that proposed recipients of WIPP information other than archives and record centers will accept the information and make use of it in the manner indicated by the Department in Docket A-93-02, Item II-G-1 and supplementary information.

(b) Upon receipt of the information required under paragraph (a) of this condition, the Agency will place such documentation in the public dockets identified in §194.67. The Agency will determine if a modification to the compliance certification in effect is necessary. Any such modification will be conducted in accordance with the requirements at §§194.65 and 194.66.

[63 FR 27405, May 18, 1998]

PART 195—RADON PROFICIENCY PROGRAMS

Subpart A—General Provisions

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AUTHORITY: 15 U.S.C. 2665.

SOURCE: 59 FR 13175, Mar. 18, 1994, unless otherwise noted.

Subpart A—General Provisions

§ 195.1 Purpose and applicability.

(a) *Purpose.* The purpose of this part is to establish and collect the fees from applicants and participants required by section 305 of the Toxic Substances Control Act, U.S.C. 2665 to defray the cost to EPA for operating the following programs: The National Radon Measurement Proficiency (RMP) Program, the individual proficiency component of the RMP Program, and the National Radon Contractor Proficiency (RCP) Program.

(b) *Applicability.* This part applies to all applicants and participants in the following EPA programs: The National Radon Measurement Proficiency Program, the individual proficiency component of the RMP Program, and the National Radon Contractor Proficiency Program.

§ 195.2 Definitions.

Definitions in 15 U.S.C. 2602 and 2662 apply to this part unless otherwise specified in this section. In addition, the following definitions apply:

Acceptance date means the date on which EPA enters the application into the data system.

Accepted application refers to an application that has been entered into the data system.

Applicant means an individual or organization that submits an application to the RMP program, including the individual proficiency component of the RMP program, or the RCP program. An applicant to the RMP program must submit a separate application for each location from which it provides radon measurement services. After the application is accepted by EPA, the applicant becomes a "participant" in the proficiency programs.

Application means the documents submitted to EPA by applicants to the RMP and RCP programs which request participation in a program.

Device/measurement device means a unit, component, or system designed to measure radon gas or radon decay products.